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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,717	02/09/2004	Richard V. Langhoff	0210-002	9559

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EXAMINER

WILHELM, TIMOTHY

ART UNIT PAPER NUMBER

3616

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/774,717	<b>Applicant(s)</b> LANGHOFF ET AL.	
	<b>Examiner</b> Timothy D. Wilhelm	<b>Art Unit</b> 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>06-21-2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,2,7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Langhoff (6,367,839). Langhoff discloses a restraint system for protecting an occupant of a bunk in a compartment, comprising a cushioned restraint 40 attached to at least two straps 31, each strap 31 being also attached to the compartment, wherein in a first position, the cushioned restraint forms a visually integral portion of an interior surface of the compartment, and in a second position, the cushioned restraint 40 is releasably attached to an end of the bunk such that the straps 31 extend over the bunk and an occupant of the bunk is restrained by the cushioned restraint 40 and the straps 31 and protected from impacting hard surfaces in the vehicle. The straps 31 are flexible, and the restraint system further comprises at least one latch 30 for releasably attaching the cushioned restraint system 40 to the end of the bunk and strap retractors 50 operable to retract the straps 31 when the cushioned restraint 40 is in the first position.
3. Regarding claims 7 and 8, the restraint system of Langhoff is disposed in an over-the-highway tractor wherein the cushioned restraint 40 forms a barrier

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between an occupant of the bunk and other portions of the compartment with the end of the bunk being forward-most in a direction of travel of the compartment.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Langhoff in view of Wolfe (4,050,106). Langhoff discloses a restraint system comprising a cushioned restraint 40 that includes a support bar 60 extending through and protruding from the cushioned restraint 40, wherein the protruding ends of the support bar 60 are engageable with broom clip style latches 41 on the interior surface of the compartment. Thus Langhoff discloses the present invention except for the cushion restraint 40 being retained in a recess in the interior surface of the compartment in the first position. Wolfe teaches a bed that is retained in a recess in the interior surface of a room. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to retain the cushioned restraint of Langhoff in a recess in the interior wall of the compartment for easy and aesthetically pleasing storage when not in use.

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6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Langhoff and Wolfe as applied to claims 3-5 above, and further in view of Bechik (2,131,211). Langhoff and Wolfe disclose the present invention except for the cushioned restraint including at least one handle for moving the cushioned restraint from the first position to the second position. Bechik teaches attaching a handle 10 to a mattress or cushion to enable easier movement of the mattress or cushion. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to attach the handle 10 of Bechik to the cushioned restraint 40 of the restraint system disclosed by Langhoff and Wolfe to facilitate easier movement of the cushioned restraint 40 from a first position to a second position.

7. Claims 1,7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. (US Patent 5,536,042) in view of Harrison (5,248,187). Williams et al. ('042) disclose, in figures 1-5, a restraint system for an occupant of a bunk in a compartment, wherein the compartment is disposed in an over-the-highway tractor and the restraint forms a barrier between an occupant of the bunk and other portions of the compartment, comprising at least two flexible straps (42-44) each having a first end (27) releasably attached to the end of the bunk (near reference 28 in figure 1), the end being forward-most in a direction of travel of the compartment, each strap also having a second end (39), the straps extending when in use from the first ends over the bunk bed to the second ends; and each including a restraint portion; and a pair of releasable

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locks (47-49, 33-35) for releasably attaching, when in use, the second ends to the vehicle (attached by bolt near 39 and 40 shown in figure 1);

8. Williams et al. ('042) disclose the claimed device except for at least one energy absorbent cushioning member attached to the straps in a position relative to the bunk bed for providing restraint. Harrison discloses that it is known in the art to provide an energy absorbent cushioning member (21) to apply pressure to an enlarged area. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide cushioning to the cross straps/restraint enhancing members of the restraint system of Williams et al. ('042) with the energy absorbent cushion member of Harrison, in order to apply the pressure upon impact to an increased area.

9. It is widely recognized and accepted in the art of cushions to vary their length to accommodate for the size and amount of cushioning. It would have been an obvious matter of design choice to make the padding a length sufficient to protect the body of a prone occupant to absorb force over the entire body surface. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the cushion of the above combination with a length sufficient to protect the body of a prone occupant in order to provide cushioning over the entire body.

10. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. ('042) in view of Harrison and Williams et al. (US Patent 5,375,879). Williams et al. ('042) discloses the claimed device including at least two releasable locks (near reference 39 in figure 1, near reference 47 and 33 in

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figures 4 and 5) fixed to the vehicle and being releasably lockable. Williams et al. ('042) disclose the claimed device except for a cushion attached to the straps and strap retractors operable to retract the straps when the cushioned restraint is in the first position. Harrison discloses the use of padding attached to straps for the reasons stated above. Williams et al. ('879) disclose in figures 1-10 that it is known in the art to provide strap retractors (23) attached to the vehicle where the straps retract into a stored position to move the straps out of the way when not in use.

11. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the straps of Williams et al. ('042) with the padding of Harrison in order to provide cushioning to the restraint system; and it further would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the straps of Williams et al. ('042) with the retractors of Williams et al. ('879) in order to move the straps out of the way when not in use.

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al ('042), Harrison, and Williams et al ('879) as applied to claims 1,2,7, and 8 above, and further in view of Wolfe (4,050,106). Williams et al ('042), Harrison, and Williams et al ('879) disclose the present invention except for the restraint being retained in a recess in the interior surface of a compartment. Wolfe teaches a bed that is retained in a recess in the interior surface of a room. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to retain the cushioned restraint of Williams

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et al ('042), Harrison, and Williams et al ('879) in a recess in the interior wall of the compartment for easy and aesthetically pleasing storage when not in use.

13. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al ('042), Harrison, Williams et al ('879) and Wolfe as applied to claims 1-3,7, and 8 above, and further in view of Bechik (2,131,211). Williams et al ('042), Harrison, Williams et al ('879) and Wolfe disclose the present invention except for the cushioned restraint including at least one handle for moving the cushioned restraint from the first position to the second position. Bechik teaches attaching a handle 10 to a mattress or cushion. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to attach the handle 10 of Bechik to the cushioned restraint of the restraint system disclosed by Williams et al ('042), Harrison, Williams et al ('879) and Wolfe to facilitate easier movement of the cushioned restraint from the first position to the second position.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Xiromeritis et al (6,82,815) discloses a cushion retained in a recess in the surface of a vehicle seat, the cushion forms a visually integral portion of the surface.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy D. Wilhelm whose telephone number is 571-272-6980. The examiner can normally be reached on 9:00 AM to 5:30 PM Monday through Friday.




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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TDW

 4/26/06  
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